



UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

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GENERAL GOVERNMENT
DIVISION

B-215808

SEPTEMBER 11, 1984

The Honorable Patricia Schroeder
Chairwoman, Subcommittee on
Civil Service
Committee on Post Office and Civil
Service
House of Representatives



The Honorable Ted Stevens
Chairman, Subcommittee on
Civil Service, Post Office
and General Services
Committee on Governmental Affairs
United States Senate

Subject: Operations of the Federal Labor Relations
Authority (GAO/GGD-84-96)

You asked us to review several aspects of the operations of the Federal Labor Relations Authority (FLRA) and to determine whether it is fulfilling its responsibilities under Title VII of the Civil Service Reform Act (CSRA) of 1978 (Public Law 95-454). During the initial phase of our review, however, we found that FLRA had taken or plans to take several actions to identify and resolve case processing and administrative problems. As agreed with your offices, because of these actions, we have deferred our review to allow time for FLRA to make the administrative and procedural changes that its own analysis indicates are needed. We intend to reopen the review when the effects of FLRA's actions can be better determined. The following sections provide a brief background on FLRA; briefly describe our objectives, scope, and methodology; and summarize recent FLRA actions relating to our objectives.

BACKGROUND

FLRA was established as an independent, neutral, third-party agency for resolving labor-management disputes in the federal sector by Title VII ("Federal Service Labor-Management Relations") of the CSRA. FLRA establishes policies and guidance

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relating to federal labor-management relations and has primary responsibility for administering Title VII. Specifically, the FLRA resolves representation issues, such as determining the appropriateness of bargaining units (whether a unit meets established criteria to be certified as a representative of a group of employees) and supervising or conducting representation elections. It also adjudicates or otherwise resolves unfair labor practice (ULP) complaints, negotiability disputes, and exceptions to arbitration awards. In addition, the FLRA handles requests to resolve impasses in labor negotiations and resolve issues relating to the granting of consultation rights to labor organizations with respect to internal agency policies and governmentwide rules and regulations. (Granting of consultation rights entitles a labor organization to be informed of any substantive change in conditions of employment proposed by an agency and to be permitted reasonable time to present its views and recommendations regarding the changes.)

FLRA is organized into four major subunits: the Authority¹, the Office of the General Counsel (OGC), the Office of Administrative Law Judges, and the Federal Service Impasses Panel. The Authority adjudicates cases, such as appeals on negotiability issues; exceptions to arbitration awards; reviews of decisions in representation and national consultation rights cases; and final determinations of ULP complaints which cannot be resolved voluntarily. The OGC is directly responsible for the FLRA regional offices, for investigating alleged ULPs, and for filing and prosecuting ULP complaints. In addition, since October of 1983, OGC has been delegated decisionmaking responsibility for processing representation (determining appropriateness of units, supervising or conducting elections, etc.) and national consultation rights cases. The Office of Administrative Law Judges hears cases pursuant to the Administrative Procedures Act on ULP complaints and some representation petitions and issues decisions which are reviewable by the Authority. The Federal Service Impasses Panel is an entity within FLRA which assists federal agencies and unions representing federal employees in resolving impasses which arise in labor negotiations. For fiscal year 1984, FLRA has been authorized \$16.9 million and 302 permanent positions.

OBJECTIVES, SCOPE, AND METHODOLOGY

On the basis of our initial work and discussions with your offices to further define specific interests and concerns, we attempted to determine what changes FLRA has made or is planning

¹Throughout this report, "FLRA" refers to the agency as a whole while "Authority" is used to distinguish the three members of the Authority and its staff from the other three units.

to make in its case processing and administrative operations; to determine if FLRA prepares a compilation of its case decisions to assist interested parties in resolving their differences; and to obtain the views of several large federal employee unions and agencies on FLRA's impact on federal labor-management relations.

We performed our work at FLRA headquarters in Washington D.C., interviewing officials and reviewing records of the Authority and OGC.

As requested by your offices, we did not obtain official written agency comments but have informally discussed a draft of this report with FLRA officials who concurred with its contents. Other than not obtaining official comments, we conducted our review in accordance with generally accepted government auditing standards. Our work was conducted from January 22, 1984, through July 13, 1984.

RECENT FLRA ACTIONS

The several actions that FLRA has taken or plans to take are detailed in the following sections.

Case processing

For fiscal year 1983, OGC continued its interim 75-day time targets for processing both its representation and ULP cases. These time targets were established in fiscal year 1982 to encourage more expeditious case handling and more efficient case management, thereby reducing case backlogs. The Authority also established informal goals to decide its negotiability, ULP, and arbitration cases within 1 year and its representation cases within 6 months. Although the OGC has met its case processing time goals and is considering reducing them, the Authority has been criticized by federal employee unions (American Federation of Government Employees, National Association of Government Employees, National Federation of Federal Employees, and National Treasury Employees Union); federal agencies (Department of Defense and Office of Personnel Management); and congressional representatives for its untimely processing of cases which assertedly makes its third-party dispute resolution process ineffective. These delays prolong labor-management disputes because both parties lack an incentive to reach agreement while FLRA is considering the issue. The enclosure summarizes fiscal year 1983 case processing data that was provided by the OGC and the Authority.

The Authority has taken or is planning to take the following actions to identify and correct problems with its operations in order to expedite its case processing.

On August 29, 1983, the new Chairman formed a Special Task Force to analyze the Authority's operations. The Task Force was made up of seven FLRA employees, both professionals and nonprofessionals, with a consulting firm providing coordinative assistance. The Task Force surveyed a cross section of employees at all levels to obtain their perceptions of concerns and problems. The Task Force completed its confidential report and presented it to the Chairman and the two other Authority Members on October 3, 1983.

Following the Task Force's report, on February 1, 1984, the Chairman announced several organizational changes within the Authority, including a restructuring of the Office of the Executive Director and creation of the Executive Director/Administrator position. The new position requires expertise in labor-management relations as well as in administrative matters. Another new position, Director, Case Management, was also created to consolidate case related operational functions. This official is responsible for overseeing all aspects of case operations and case tracking to facilitate the expeditious processing of cases.

To provide for a more expeditious processing and determination of representation matters, effective October 1983, the Authority delegated to its regional directors the authority to issue final decisions and orders on determining appropriate bargaining units, directing an election or dismissing an election petition, or otherwise deciding representation matters. These regional director decisions are subject to a limited right of review by the Authority. Hearings have been held on 15 representation petitions filed since the time of this delegation. On these cases, six decisions have been issued in a median time of 82 days. Nine decisions are pending.

To expedite the resolution of exceptions to arbitration awards, the Authority established a Special Arbitration Task Force in November 1983. The CSRA provides for final and binding arbitration by independent arbitrators for a wide variety of labor-management disputes. To guard against the rare and exceptional case in which an arbitrator's decision is contrary to law, rule, or regulation, either party may file an exception to an arbitration award, unless it relates to a removal or demotion for unacceptable performance. The Authority reviews these exceptions to determine if these are deficient and takes whatever actions are necessary to insure their consistency with law, rule, or regulation. The objective of the Special Arbitration Task Force, directed by one of the Authority Members, was to reduce the backlog of exceptions to arbitration awards cases by reviewing all pending arbitration exception cases and identifying those where it appeared that the exceptions would fail to establish that the arbitrator's award was deficient. From

November 1983 to March 1984, the Authority's arbitration case-load was reduced from 230 cases to 147 cases. Although the Task Force was a special project, the Authority plans to continue to expedite these types of cases, to stay current with new case filings, and to seek ways to promptly resolve those cases having merit.

One of the primary goals of the new Executive Director/Administrator, who took office June 3, 1984, is to try to resolve the Authority's case processing problems. His multifaceted internal review of the case processing functions includes determining the reasons for case draft decisions being repeatedly recycled through many levels of review, interviewing staff members regarding the case decision process, assessing the quality of draft decisions, assessing the use of the computerized management information and case tracking system, and reviewing employee performance standards to determine what revisions are needed.

On the basis of a review of proposals from the Department of Defense and four large federal employee unions, the Authority decided to grant agencies, unions, and interested parties an opportunity to comment on the Authority's case processing procedures in an effort to identify modifications that would improve case processing. Therefore, in the June 20, 1984, issue of the Federal Register, the Authority requested written proposals concerning possible modifications to its case processing procedures. After the written submissions are received and reviewed, interested parties will be invited to address these matters at open meetings.

Administrative changes

With assistance from the Congress, the FLRA has taken steps to resolve administrative problems that characterized the early years of its independent existence.

The CSRA originally provided that the President designate one member of the three-member Authority to serve as Chairman. The law did not define the role of the Chairman or indicate the relationship of the Chairman to the other two members. In a previous GAO report which addressed FLRA's purchase of office furniture and furnishings², we identified a number of FLRA administrative problems and stated that they could be traced back to the equal sharing of administrative authority and

²Report to the Chairman, Subcommittee on Federal Expenditures, Research and Rules, Senate Committee on Governmental Affairs: Deficient Management Practices at the Federal Labor Relations Authority--Action Being Taken (GAO/PLRD-83-24, Feb. 2, 1983).

responsibility among the three members, rather than designating the Chairman as head of the agency. In an attempt to resolve this issue, on May 20, 1982, the members delegated to the Chairman the responsibility and authority to manage internal administrative matters. The Congress, with passage of the Civil Service Miscellaneous Amendments Act of 1983 (Public Law 98-224), statutorily designated the Chairman as the chief executive and administrative officer of the FLRA.

To further improve administrative practices, FLRA has delegated to the Executive Director/Administrator the responsibility for managing the day-to-day operations of FLRA's national office and for formulating and implementing administrative policies. In fulfilling his duties, the Executive Director/Administrator issued regulations, which became effective July 1, 1984, controlling the procurement of goods and services. These regulations designate officials authorized to (1) approve a proposed procurement requisition and commit FLRA funds and (2) take the appropriate administrative steps to award the procurement action and obligate funds to contractors.

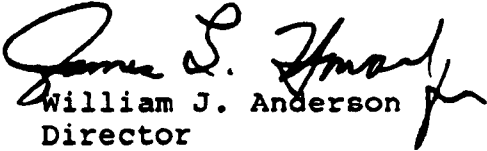
Case decision compilations

Through May of 1981, FLRA had issued three bound volumes of case decisions which covered decisions from January 1979 through July 1980. This information on FLRA decisions was available to other interested parties to assist them in monitoring their own labor-management situations. As a result of the fiscal year 1982 budget reductions, FLRA halted the printing of bound volumes of its decisions. The FLRA did, however, continue to issue its weekly report of case decisions. Other sources also provided guidance on FLRA decisions. They included the Department of Defense's "Subject-Matter Index and Digest of Decisions of the FLRA" and the digest and index services offered by other publishers.

FLRA began publishing bound decision volumes again in fiscal year 1983. As of November 1983, FLRA had issued 10 volumes covering decisions through December 1982. By the end of fiscal year 1984, FLRA plans to have issued volumes 11 through 14 which cover decisions through May 1984.

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As arranged with your offices, we will also send copies of this report to the Chairman, Federal Labor Relations Authority, and other FLRA officials. Copies are available to other interested parties upon request.


William J. Anderson
Director

Enclosure

FLRA CASES PROCESSED DURING FISCAL YEAR 1983

	<u>OGC</u>		<u>Authority</u>			
	<u>Representa-</u> <u>tion cases</u>	<u>ULP</u> <u>cases</u>	<u>Negotiabil-</u> <u>ity cases</u>	<u>Arbitra-</u> <u>tion cases</u>	<u>Representa-</u> <u>tion cases</u>	<u>ULP</u> <u>cases</u>
Pending--beginning of year	72	1,090	249	152	85	247
Filed during year	364	5,346	188	222	58	199
Closed during year	384	5,500	142	127	84	164
Pending--end of year	52	936	295	247	59	282
Average age at closing (in days)	57 ^a	74 ^a	444	285	502	362
Processing time goals (in days)	75	75	365	365	180	365

^aThe ages at closing for OGC are median ages instead of average ages.

ENCLOSURE

ENCLOSURE